



PROPOSED RULE MAKING

CR-102 (July 2022)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

CODE REVISER USE ONLY

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: September 17, 2025

TIME: 10:32 AM

WSR 25-19-099

Agency: Employment Security Department

☒ **Original Notice**

☐ **Supplemental Notice to WSR** _____

☐ **Continuance of WSR** _____

☒ **Preproposal Statement of Inquiry was filed as WSR 25-12-047 ; or**

☐ **Expedited Rule Making--Proposed notice was filed as WSR** _____; or

☐ **Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or**

☐ **Proposal is exempt under RCW** _____.

Title of rule and other identifying information: (describe subject)

Adding:

WAC 192-905-008 Automatic exemption for an employee who holds a nonimmigrant visa for temporary workers.

WAC 192-905-009 Rescission period for an employee who has received a voluntary long-term care insurance exemption.

WAC 192-940-011 How is a qualified individual determination made for the pilot project?

Chapter 192-950 WAC Determinations

WAC 192-950-005 What happens if there is a question regarding an individual's application?

WAC 192-950-010 What happens if an interested party does not respond to the department's request for information?

WAC 192-950-015 How will determinations be made?

Amending:

WAC 192-905-005 Eligibility requirements for an employee to receive a permanent exemption from the long-term services and supports trust program.

WAC 192-905-006 Eligibility requirements for an employee to receive a conditional exemption from the long-term services and supports trust program.

WAC 192-905-020 When is an employee entitled to a refund of premiums?

WAC 192-910-015 What are the employer's responsibilities for premium deductions?

WAC 192-920-005 Parties to collective bargaining agreements.

WAC 192-940-010 How will the department determine if someone is a qualified individual?

Hearing location(s):

Date:

Time:

Location: (be specific)

Comment:

October 21, 2025

9:00 a.m.

Microsoft TEAMS

Hearing will be held remotely

Join online: link available at
paidleave.wa.gov/rulemaking

Join by phone: 564-999-2000
PIN: 738 474 083#

Date of intended adoption: On or after October 28, 2025 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Janette Benham

Address: Employment Security Department, PO Box 9046
Olympia, WA 98507-9046

Email: rules@esd.wa.gov

Fax:

Other:

By (date) October 21, 2025

Assistance for persons with disabilities:

Contact Teresa Eckstein, State EO Officer

Phone: 360-480-5708

Fax:

TTY:

Email: teckstein@esd.wa.gov

Other:

By (date) October 14, 2025

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The Employment Security Department (department) is proposing new rules and amendments regarding the Long-Term Services and Supports Trust Program (WA Cares Fund) to implement portions of Engrossed Substitute Senate Bill (ESSB) 5291 (Chapter 380, Laws of 2025). The proposed rules implement portions of ESSB 5291 and include requirements regarding qualifying for benefits, a new voluntary exemption for off-duty civilian employment for active-duty service members, automatic exemptions for non-immigrant work visa holders, voluntary rescission of private long-term care insurance exemptions, qualified individual determinations for a pilot project, and collective bargaining agreement participation requirements. Additional proposed rules include a new chapter regarding due process when additional information is requested by the department.

Reasons supporting proposal: The proposed rules implement requirements of ESSB 5291 and outline due process requirements when the department has requested additional information from interested parties in order to make determinations.

Statutory authority for adoption: RCW 50B.04.020, RCW 50B.04.053, RCW 50B.04.055, RCW 50B.04.085

Statute being implemented: RCW 50B.04.050, RCW 50B.04.053, RCW 50B.04.055, RCW 50B.04.080, RCW 50B.04.085,

Is rule necessary because of a:

Federal Law? ☐ Yes ☒ No

Federal Court Decision? ☐ Yes ☒ No

State Court Decision? ☐ Yes ☒ No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Type of proponent: ☐ Private ☐ Public ☒ Governmental

Name of proponent: (person or organization) Employment Security Department, Leave and Care Division

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	April Amundson	Olympia, WA	360-485-2816
Implementation:	April Amundson	Olympia, WA	360-485-2816
Enforcement:	April Amundson	Olympia, WA	360-485-2816

Is a school district fiscal impact statement required under [RCW 28A.305.135](#)? ☐ Yes ☒ No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

Is a cost-benefit analysis required under [RCW 34.05.328](#)?

☐ Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

☒ No: Please explain:

The following rules are exempt under RCW 34.05.328 (5)(b)(v) because they are explicitly and specifically dictated by ESSB 5291:

WAC 192-905-005; WAC 192-905-006; WAC 192-910-015; WAC 192-920-005; and WAC 192-940-010.

The following rules are exempt under RCW 34.05.328 (5)(b)(v) and RCW 34.05.328(5)(c)(ii). Portions of the rules are explicitly and specifically dictated by ESSB 5291 and include portions that are interpretive and set forth the agency's interpretation of statutory provisions. Interpretive rules are not significant legislative rules under RCW 34.05.328(5)(c)(iii):

WAC 192-905-008; WAC 192-905-009; WAC 192-905-020; and WAC 192-940-011.

The following rules are exempt under RCW 34.05.328(5)(c)(i)(C) because they are procedural rules that adopt a policy pertaining to the internal operations of the department. Procedural rules are not significant legislative rules under RCW 34.05.328(5)(c)(iii);

WAC 192-950-005; WAC 192-950-010; and WAC 192-950-015.

Regulatory Fairness Act and Small Business Economic Impact Statement

Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). Please check the box for any applicable exemption(s):

☐ This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.061](#) because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

☐ This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by [RCW 34.05.313](#) before filing the notice of this proposed rule.

☐ This rule proposal, or portions of the proposal, is exempt under the provisions of [RCW 15.65.570](#)(2) because it was adopted by a referendum.

☒ This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025](#)(3). Check all that apply:

☐ [RCW 34.05.310](#) (4)(b)
(Internal government operations)

☒ [RCW 34.05.310](#) (4)(e)
(Dictated by statute)

☐ [RCW 34.05.310](#) (4)(c)
(Incorporation by reference)

☐ [RCW 34.05.310](#) (4)(f)
(Set or adjust fees)

☐ [RCW 34.05.310](#) (4)(d)
(Correct or clarify language)

☐ [RCW 34.05.310](#) (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

☒ This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025](#)(4) (does not affect small businesses).

☐ This rule proposal, or portions of the proposal, is exempt under RCW _____.

Explanation of how the above exemption(s) applies to the proposed rule:

(2) Scope of exemptions: *Check one.*

☒ The rule proposal is fully exempt (*skip section 3*). Exemptions identified above apply to all portions of the rule proposal.

☐ The rule proposal is partially exempt (*complete section 3*). The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):

	Proposed WAC Sections and Title	This proposed rule section is exempt . Provide RCW to support this exemption.
1.	WAC 192-905-005 Eligibility requirements for an employee to receive a permanent exemption from the long-term services and supports trust program.	RCW 34.05.310(4)(e) – The rule is dictated by statute (ESSB 5291, Chapter 380, Laws of 2025).
2.	WAC 192-905-006 Eligibility requirements for an employee to receive a conditional exemption from the long-term services and supports trust program	RCW 34.05.310(4)(e) – The rule is dictated by statute (ESSB 5291, Chapter 380, Laws of 2025).
3.	WAC 192-905-008 Automatic exemption for an employee who holds a nonimmigrant visa for temporary workers.	RCW 34.05.310(4)(e) – The rule is dictated by statute (ESSB 5291, Chapter 380, Laws of 2025).
4.	WAC 192-905-009 Rescission period for an employee who has received a voluntary long-term care insurance exemption.	RCW 34.05.310(4)(e) – The rule is dictated by statute (ESSB 5291, Chapter 380, Laws of 2025).
5.	WAC 192-905-020 When is an employee entitled to a refund of premiums?	RCW 34.05.310(4)(e) – The rule is dictated by statute (ESSB 5291, Chapter 380, Laws of 2025).

6.	WAC 192-910-015 What are the employer's responsibilities for premium deductions?	RCW 34.05.310(4)(e) – The rule is dictated by statute (ESSB 5291, Chapter 380, Laws of 2025).
7.	WAC 192-920-005 Parties to collective bargaining agreements.	RCW 34.05.310(4)(e) – The rule is dictated by statute (ESSB 5291, Chapter 380, Laws of 2025).
8.	WAC 192-940-010 How will the department determine if someone is a qualified individual?	RCW 34.05.310(4)(e) – The rule is dictated by statute (ESSB 5291, Chapter 380, Laws of 2025).
9.	WAC 192-940-011 How is a qualified individual determination made for the pilot project?	RCW 34.05.310(4)(e) – The rule is dictated by statute (ESSB 5291, Chapter 380, Laws of 2025).
10.	WAC 192-950-005 What happens if there is a question regarding an individual's application?	RCW 19.85.025(4) – The rule does not affect businesses and pertains only to individuals applying for program benefits, exemptions, or out-of-state coverage.
11.	WAC 192-950-010 What happens if an interested party does not respond to the department's request for information?	RCW 19.85.025(4) – The rule does not affect businesses and pertains only to individuals applying for program benefits, exemptions, or out-of-state coverage.
12.	WAC 192-950-015 How will determinations be made?	RCW 19.85.025(4) – The rule does not affect businesses and pertains only to individuals applying for program benefits, exemptions, or out-of-state coverage.

☐ The rule proposal is not exempt (*complete section 3*). No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

☐ No Briefly summarize the agency's minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs.

☐ Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Date: September 17, 2025

Name: April Amundson

Title: Policy and Rules Manager, ESPI, Leave and Care Programs

Signature:

